

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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In Re SEARCH OF) Civil Action No. 07-46M
2300 FREEPORT, SUITE 7.)
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FILED UNDER SEAL

ORDER

The Motion for Reconsideration filed by Thomas R. Ceraso,
Esq. and paralegal James Smith (Doc. 14) will be denied,
consistent with the discussions below.

Although termed a motion for reconsideration, the filing in
question appears more like a request for modification and/or
clarification of the court's March 6, 2007 Order. The
undersigned will address each of the movants' concerns,
in seriatim.

The movants first object to the Order's referring to them as
"Subjects," stating this is "a [term] of art typically reserved
for persons under investigation by federal authorities." See
Mot. at ¶ 2. In using this term, the court did not mean to
suggest that the movants are under criminal investigation.
Consistent with this understanding, all references to "Subjects"
in the March 6, 2007 Order are hereby **STRICKEN**, and in all
instances the word is replaced with "Occupants" (i.e., the
occupants of the searched premises).

The Occupants next request that, to the extent the Special Master identifies materials responsive to the search warrant, said materials not be provided to the Government until the court determines whether or not the attorney-client privilege shields them from production. This procedure already has been adopted by the March 6th Order. See *id.* at 7 ("[t]he Special Master will provide to the court paper copies of all responsive materials, and the undersigned will make an independent determination regarding which documents are subject to production and which are not"; after such determination, "[c]opies of the documents subject to production will be provided by the court to the parties") (emphasis added).

The Occupants also request that, if no responsive materials are found by the Special Master, the hard drives be returned to the Occupants or destroyed. See Mot. at ¶¶ 4-6. This request presents a hypothetical situation that may or may not come to pass. If no responsive materials are uncovered, the Occupants may renew their request and the court will decide accordingly.

Finally, the Occupants object that they have not enjoyed the opportunity to make a record for appellate review. See *id.* at ¶ 7; see also *id.* at ¶ 7(H) (suggesting that testimony should have been taken and "formal legal argument or briefs" submitted). The undersigned sees no need for the taking of testimony, however, and the Occupants already have presented legal briefs

and argument by way of their moving papers. Reply briefs are permissive, not mandatory, and there currently exists a sufficient record to justify the court's rulings.

For all of these reasons, the Occupants' Motion for Reconsideration (**Doc. 14**) is **DENIED**, consistent with the discussions above.

IT IS SO ORDERED.

March 12, 2007

Francis X. Caiatza
Francis X. Caiatza
U.S. Magistrate Judge

cc:

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The Honorable Terrence F. McVerry
United States District Court Judge